FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Civil Application No. 5548/2005

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : April 17, 2007.

By this civil application, the applicants seek condonation of delay of 594 days in filing the first appeal. The applicants have stated the reasons for delay in paragraph nos. 3 to 6 of the civil application. It is submitted on behalf of the applicants that the delay caused in filing the appeal is bonafide and the applicants were not negligent in prosecuting the matter.

Shri Najbile, the learned counsel for the non-applicant, however, strongly opposed the prayer made in the civil application, and submitted that the Court should not be liberal in condoning the delay in filing the appeal unless sufficient cause is shown. According to the learned counsel for the non-applicant, the applicants have not explained the delay in filing the First Appeal. The counsel for the non-applicant referred to a decision of Gauhatti High Court reported in **2002(1) Civil Law Journal 841**, to substantiate his submissions.

I have perused the contents of the application

as also the decision reported in 2002(1) Civil Law Journal 841. I find that the applicants have satisfactorily explained the cause of delay in paragraph nos. 3 to 6 of the civil application. In the case cited above, it was observed by the Gauhatti High Court that the State in that case had taken the matter of condonation of delay in a very casual manner and the delay was not satisfactorily and sufficiently explained by the State. Consequently, the application filed by the State for condonation of delay was dismissed. However, in the instant case, the applicants have satisfactorily explained the delay. There cannot be straight jacket formula for considering the sufficient cause for condoning the delay. Each case has to be decided on its own merits.

In the facts of the instant case, it is clear that there was sufficient cause for condoning the delay in filing the first appeal.

Civil application is, therefore, allowed and the delay of 594 days in filing the first appeal is condoned. C.A. is disposed of accordingly.

First appeal be listed for admission on 21st April, 2007 along with other connected matters.

JUDGE

RMP